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Patrick Byrne

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

ROBERT HUNTER BIDEN, an
individual,

Plaintiff,

vs.

PATRICK M. BYRNE, an individual,

Defendant.

Case No.: 2:23-cv-09430-SVW-PD

**ORDER RE: JOINT STIPULATION
FOR INDEPENDENT MENTAL
EXAMINATION OF PLAINTIFF**

1 The Court, having considered the Joint Stipulation of Plaintiff and
2 Defendant re: Independent Mental Examination of Plaintiff, orders as follows:

- 3 1. Plaintiff Robert Hunter Biden shall appear at the mental examination on
4 **October 11, 2024 at 9:00 a.m.**
- 5 2. The mental examination(s) that will be performed by Dr. Nathan E. Lavid.
6 Dr. Lavid's office is located at 834 E. 4th St., Suite F, Long Beach, CA
7 90802.
- 8 3. No one will accompany Plaintiff into the examination room. The
9 examination will be limited to seven hours of face to face interview time
10 and psychological testing, excluding breaks and paperwork, which is
11 estimated to take fifteen to thirty minutes.
- 12 4. The defense may conduct a single mental examination of Plaintiff and will
13 be required to seek leave of court for any additional mental examinations.
- 14 5. Defendant represents that Dr. Nathan E. Lavid is a licensed medical
15 professional with the State of California and is in good standing.
- 16 6. The mental examination is expected to start on time on the day and time
17 agreed to by the Parties. If Plaintiff arrives later than the agreed upon
18 examination start time, that time may be made up at the end of the
19 examination. If Plaintiff does not cooperate with the examination,
20 resulting in delay during the examination itself, then any further time
21 needed to complete the examination will be made up at the end of the
22 examination. If Plaintiff fails to appear for the examination on the date
23 agreed by the parties, then Defendant may proceed with a motion for
24 payment of Dr. Nathan E. Lavid's fees associated therewith for
25 reimbursement of the examiner's fees. Plaintiff may cancel the
26 examination up to 72-hours prior to the examination without
27 consequence, and the examination will be rescheduled upon a date and
28 time that is mutually agreeable by all Parties.

- 1 7. Dr. Lavid may use, and Plaintiff shall cooperate in the use of, accepted
2 diagnostic tests, including but not limited to a clinical interview of
3 Plaintiff and a testing period during which Dr. Lavid will administer a
4 variety of standardized written tests.
- 5 8. The examination will include a clinical interview of Plaintiff and
6 administration of the following tests: (1) SIRS (Structured Interview of
7 Reported Symptoms); (2) PAI (Personality Assessment Inventory); (3)
8 MMPI-3 (Minnesota Multiphasic Personality Inventory, 3rd Edition); (4)
9 Beck Depression Inventory; (5) Beck Anxiety Inventory; (6) OCI-R
10 (Obsessive-Compulsive Inventory – Revised); (7) YMRS (Young Mania
11 Rating Scale); (8) PCL-C (PTSD Checklist—Civilian Version); (9) PCL-
12 5 (PTSD Checklist) with LEC-5; (10) Clinician-Administered PTSD
13 Scale for DSM-5; (11) MMSE (Folstein Mini Mental State Examination);
14 (12) MoCA (Montreal Cognitive Assessment); and (13) VIP (Validity
15 Indicator Profile)
- 16 9. Dr. Lavid will be permitted to inquire into aspects of Plaintiff's alleged
17 emotional distress and psychological functioning. The interview may
18 include Plaintiff's claimed emotional damages in addition to his medical
19 history, psychological history, personal history, social history, and
20 educational history.
- 21 10. Dr. Lavid is permitted to inquire concerning the general health of family
22 members and the existence of medical or mental conditions and whether
23 treatment was received. Plaintiff will fully participate in the mental exam
24 to the best of his abilities. In the event Dr. Lavid believes in good faith
25 that Plaintiff is not participating and/or obstructing the examination, Dr.
26 Lavid will notify counsel for Defendant in order to attempt to resolve the
27 matter at that time with Plaintiff's legal counsel. If the Parties are unable
28 to resolve the issue, Defendant reserves the right to terminate the

1 examination and file a Motion to Compel with the Court and either party
2 may seek monetary sanctions.

3 11. Dr. Lavid shall conduct the examination of Plaintiff, which total
4 examination (from start to finish and including any written testing) shall
5 not take more than seven hours, which shall include lunch breaks, rest
6 breaks, and bathroom breaks. This total hour limitation is subject to
7 Plaintiff participating in the examination to the best of his abilities and not
8 obstructing the examination. If at any time during the proceedings,
9 Plaintiff feels in reasonably good faith that the proceeding has become
10 abusive or harassing, he will immediately notify his counsel or other
11 designated representative in order to try to resolve the matter at that time.

12 12. Defendant shall provide a copy of a detailed written report to Plaintiff's
13 counsel setting out the history, examinations, findings, including the
14 results of all tests made, diagnoses, prognoses, and conclusions of the
15 examiner within 30 days of the completion of the examination. Defendant
16 shall make Dr. Lavid available for a deposition within a reasonable
17 amount of time after production of the expert report. Plaintiff shall also
18 make his rebuttal expert available for a deposition within a reasonable
19 amount of time after production of Dr. Lavid's expert report.

20 13. Production of Examiner's Testing and Raw Data:

21 a. Testing and Raw Data to Plaintiff's Mental Health Expert: The
22 defense medical examiner will provide to Plaintiff's mental health
23 expert, as retained and designated by Plaintiff in writing in this
24 action ("Plaintiff retained mental health expert"), all testing and raw
25 data related to or generated by the mental examination. Similarly,
26 Plaintiff's retained mental health expert shall also disclose to the
27 defense medical examiner all testing and raw data related to or
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1 generated by any mental examination of Plaintiff conducted by
2 Plaintiff's retained health expert.

3 b. At the conclusion of any testing of Plaintiff by Dr. Lavid, a copy of
4 the actual test pages, raw data generated and all test results regarding
5 Plaintiff shall be exchanged simultaneously with Plaintiff's
6 respective experts in the specified field of expertise, whose
7 information will be provided at a subsequent time. No other
8 individuals will be able to receive said raw data and test materials
9 due to the ethical and legal obligations described in sections below.
10 This is the usual and customary practice that allows Dr. Lavid to
11 abide by his ethical and legal obligations.

12 14. The Parties shall be permitted to make an audio recording of the interview
13 portion of the examination. The production of the recording shall be
14 limited to Plaintiff's counsel, Defendant's counsel, Defendant, and all
15 experts designated by the parties who are professionally qualified, subject
16 to the express terms and conditions of the Stipulated Protective Order
17 between the Parties in this matter.

18 15. The defense's medical professionals and their staff will accommodate all
19 reasonable requests to accomplish this recording, including, but not
20 limited to taking any necessary breaks during the examination, taking a
21 break if technical difficulties arise, making available all other reasonable
22 accommodations to allow the effective recording of the mental
23 examination.

24 16. There shall be no third-party observers allowed in the evaluation. This is
25 the standard of practice in psychiatry and is a standard in these medical-
26 legal proceedings.

27 17. The medical examiner's office will not take any photographs, fingerprints
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1 or other identification information from the Plaintiff, including, but not
2 limited to license, Social Security number and home address.

3 18. Plaintiff's agreement to submit to this examination is contingent on the
4 agreement by Defendant that they will not schedule any other
5 examinations by any other doctors in the same areas of this examination
6 without leave of court. By proceeding with the examination, it will be
7 deemed that Defendant has agreed to this condition.

8 19. Nothing herein shall be construed as a waiver of Plaintiff or his family's
9 privacy rights, medical privacy rights, doctor patient privilege, attorney-
10 client privilege, or psychotherapist patient privileges. Nothing herein shall
11 be construed as a waiver of Plaintiff's right to challenge the admissibility
12 or appropriateness of any opinion or contention.

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16 **IT IS SO ORDERED.**

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19 DATED: September 19, 2024



20 Honorable Patricia A. Donahue
21 United States Magistrate Judge
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